

## **REQUEST FOR RECONSIDERATION**

Reconsideration of the present application is respectfully requested.

Claims 1-12 and 15-28 are pending in the application. It is gratefully acknowledged that the Examiner allowed Claims 5-12 and 20-28 and objected to Claim 4 as being dependent upon a rejected base claim. The Examiner maintained the rejection of Claims 1-3 and 15-19 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,188,698 to *Galand et al.* (hereinafter *Galand*) in view of U.S. Publication No. 2005/0044206 to *Johansson et al.* (hereinafter *Johansson*).

Regarding the §103(a) rejection, Applicants respectfully traverse. Independent Claim 1 recites, *inter alia*, determining a parameter based on whether the measured number of packet data is larger than a threshold value associated with a two-way communication characteristic of the packet data transmission. Independent 15 similarly recites this recitation in an apparatus claim format. *Galand* simply does not teach this recitation.

Applicants respectfully assert that *Galand* does not determine whether a measured number of packet data is larger than a threshold value. The Examiner incorrectly alleged that “counted packets” is compared to a threshold. *Galand* makes no such determination. The COUNT(i) does not refer to counted packets, or a measured number of packet data as recited in the rejected claims. Instead, it refers to whether each connection is “well-behaving” or “misbehaving”, based on “color” (i.e., behavior) of each packet, and Q.O.S. characteristics/priority class (see *Galand*, col. 8, lns. 26-34; see also col. 8, line 65 – col. 9, line 3). Accordingly, it is respectfully asserted that *Galand* clearly fails to teach the recitation at issue in Claims 1 and 15.

*Galand* basically determines connection classifications in FIG. 5A based on whether the color of current connections is red or green. There is no measured amount of packets compared to a threshold in *Galand*, and further, this figurative red or green determination in *Galand* has

nothing to do with whether a measured number of packet data is larger than a threshold value associated with a two-way communication characteristic of the packet data transmission, as recited in the claims.

In the Response to Arguments, the Examiner basically stated that it is not unreasonable to correlate COUNT (i) in *Galand* to a measured number of packet data. Applicants respectfully submit that the Examiner has made an excessively broad interpretation of *Galand*, in view of the foregoing explanation.

It is respectfully submitted that *Galand* does not disclose a threshold value and a period of time to measure the number of packet data, as described in the rejected claims. For at least the foregoing reasons, withdrawal of the rejection of Claims 1-3 and 15-19 is respectfully requested.

Independent Claims 1 and 15 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-3 and 16-19, these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-3 and 16-19 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-12 and 15-28, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over a horizontal line.

Paul J. Farrell

Reg. No. 33,494

Attorney for Applicant

THE FARRELL LAW FIRM  
333 Earle Ovington Blvd., Suite 701  
Uniondale, New York 11553  
Tel: (516) 228-3565  
Fax: (516) 228-8475

PJF/RCC/dr